



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF JULY 10, 2014**

CALL TO ORDER: Chairperson Pentaleri called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Pentaleri, Commissioners Bonaccorsi, Dorsey, Jones, Karipineni, Leung, Reed

ABSENT: None

STAFF PRESENT: Wayne Morris, Principal Planner
Prasanna Rasiah, Deputy City Attorney
Steve Kowalski, Associate Planner
Joel Pullen, Associate Planner
James Willis, Planner
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Napoleon Batalao, Video Technician

APPROVAL OF MINUTES: Regular Meeting of June 12, 2014, was not approved.

DISCLOSURES: **Commissioner Reed** drove by sites of Item Nos. 4 and 5 and spoke with April with Save Kimber Park regarding Item No. 5.
Commissioner Dorsey met with April, Item No. 5, and drove by sites of Item Nos. 1 and 4.
Vice Chairperson Jones drove by sites of Item Nos. 1, 4 and 5.
Commissioner Karipineni drove by site of Item No. 1, met with April regarding Item No. 5, walked site and spoke with Applicant regarding Item No. 4.
Commissioner Leung drove by sites of Item Nos. 4 and 5.
Chairperson Pentaleri met with Applicant regarding Item No. 4, walked site and met with representatives with Save Kimber Park regarding Item No. 5 on April 29th and held telephone conversation regarding Item No. 5 two days ago.

CONSENT CALENDAR

THE CONSENT CALENDAR CONSISTED OF ITEM NUMBERS 1, 2, AND 3.

IT WAS MOVED (JONES/LEUNG) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTIONS ON ITEM NUMBERS 1, 2, AND 3.

Commissioner Reed recused himself from voting on Item 1, because he lived within 500 feet of the site.

Commissioner Karipineni recused herself from voting on Item 3, due to nearby family-owned property.

- Item 1. **ANNIE'S GUNS - 40655 Grimmer Boulevard - (PLN2014-00193)** - To consider a Conditional Use Permit to allow a retail firearm store and self-defense classroom for adults to relocate from 40927 to 40655 Grimmer Boulevard in the Irvington Community Plan Area; and to consider a categorical exemption from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures).

NOTES and CORRECTIONS

Staff requests that the following corrections be included in the **Conditions of Approval**: Exhibit "B" page 2

- ~~4. The Planning Manager, in consultation with the Police Department, may make changes to the proposed operation or site of the firearms dealership, including hours of operation. However, the Planning Manager may refer any modifications to the Planning Commission if he/she determines the request is of such a nature that it warrants consideration by the Commission.~~
4. Changes to the proposed operation or site of the firearms dealership, including hours of operation, shall require an amendment to the Conditional Use Permit.

FOUND THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15303 (NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES);

AND

FOUND THAT THE CONDITIONAL USE PERMIT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE, ECONOMIC DEVELOPMENT AND SAFETY ELEMENTS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

FOUND THAT THE PROJECT AS SHOWN ON EXHIBIT "A" (SITE PLAN AND FLOOR PLAN), FULFILLS THE APPLICABLE REQUIREMENTS AS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

APPROVED CONDITIONAL USE PERMIT PLN2014-00193 AS SHOWN ON EXHIBIT “A,” BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT “B.”

The motion carried by the following vote:

AYES: 6 – Bonaccorsi, Dorsey, Jones, Karipineni, Leung, Pentaleri
NOES: 0
ABSTAIN: 0
ABSENT: 0
RECUSE: 1 – Reed

- Item 2. **EAST BAY REGIONAL PARK DISTRICT GENERAL PLAN CONFORMITY FINDING - Patterson Ranch - (PLN2014-00349)** - To consider a Finding of General Plan Conformity for the East Bay Regional Park District's acquisition through donation of four parcels totaling approximately 296.40 acres from the Patterson Ranch property owners, and to consider an exemption from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15378.

FOUND THAT THE GENERAL PLAN CONFORMITY FINDING FOR THE FOUR PARCELS SHOWN ON EXHIBIT “A” ARE NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15378, IN THAT THE FINDING IS NOT A PROJECT AS DEFINED BY CEQA;

AND

FOUND THAT PLN2014-00349 FOR THE PROPOSED DISPOSITION OF FOUR PARCELS AS SHOWN ON EXHIBIT “A” IS IN CONFORMANCE WITH THE GENERAL PLAN LAND USE DESIGNATION OF OPEN SPACE - RESOURCE CONSERVATION/PUBLIC AND RELEVANT GENERAL PLAN GOALS AND POLICIES AS DESCRIBED IN THE STAFF REPORT.

The motion carried by the following vote:

AYES: 6 – Bonaccorsi, Dorsey, Jones, Leung, Pentaleri, Reed
NOES: 0
ABSTAIN: 0
ABSENT: 0
RECUSE: 1 –Karipineni

- Item 3. **DOWNTOWN COMMUNITY PLAN AMENDMENT - (PLN2014-00354)** - To consider an amendment to the Downtown Community Plan and Standard Details adopted for Capitol Avenue between State Street and Paseo Padre Parkway within the Downtown District to allow modifications to the street design. Pursuant to the California Environmental Quality Act (CEQA), a Final Supplemental Environmental Impact Report (SCH#2010072001) was previously certified for the Downtown

Community Plan and Design Guidelines and no further environmental review is required.

RECOMMENDED THAT THE CITY COUNCIL TAKE THE FOLLOWING ACTIONS:

FIND THAT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), A FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SCH#2010072001) WAS PREVIOUSLY CERTIFIED FOR THE DOWNTOWN COMMUNITY PLAN AND DESIGN GUIDELINES AND STANDARD DETAILS, AND NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED FOR THE AMENDMENT;

AND

FIND THAT THE PROPOSED PROJECT IS CONSISTENT WITH THE GENERAL PLAN AND FURTHERS THE PUBLIC INTEREST, CONVENIENCE AND GENERAL WELFARE OF THE CITY IN THAT IT WOULD SUSTAIN AND PROMOTE THE CREATION OF JOBS, SALES TAX REVENUE, AND A DIVERSE AND DYNAMIC LOCAL ECONOMY;

AND

ADOPT A RESOLUTION APPROVING AN AMENDMENT TO THE DOWNTOWN COMMUNITY PLAN AND DESIGN GUIDELINES AND STANDARD DETAILS, AS SHOWN IN EXHIBIT "A."

The motion carried by the following vote:

AYES:	7 – Bonaccorsi, Dorsey, Jones, Karipineni, Leung, Pentaleri, Reed
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

PUBLIC/ORAL COMMUNICATIONS

None

PUBLIC HEARING ITEMS

- Item 4. **MISSION BOULEVARD TOWNHOMES - 39311 Mission Boulevard - (PLN2014-00084)** - To consider a Rezoning from R-3-27 (Multifamily Residence) and City-initiated Planned District to Preliminary and Precise Planned District P-2014-84, Tentative Tract Map No. 8163, and a Private Street for a new 33-unit townhouse-style condominium development on a 1.9-acre site, and to consider a Mitigated Negative Declaration prepared and circulated for the project in accordance with the requirements of the California Environmental Quality Act (CEQA).

NOTES and CORRECTIONS

Staff requests that the following corrections be included in the Conditions of Approval: Exhibit "E" page 9, Condition of Approval #15 is modified as follows:

~~15. Within the existing Overacker Road proposed to be vacated, Caltrans (State) owns the underlying fee approximately along the alignment of the entry to the proposed Private Street. The applicant is required to acquire real property interest from Caltrans to construct the Private Street prior to approval of the Final Map.~~

15. All improvements within the State of California Department of Transportation's (Caltrans') right-of-way and/or property shall require an encroachment permit from Caltrans prior to approval of the Final Map.

Commissioner Bonaccorsi recused himself, because of past or existing client relationships.

Associate Planner Kowalski stated that the Applicant would subsequently be requesting that the City vacate a surplus portion of the Overacker Avenue roadway easement and revert it acreage under a separate General Vacation Application, which the Applicant would then acquire as additional property for this project. The site consisted of two privately-owned parcels with one at 39311 Mission Boulevard and a sliver-shaped parcel located between the first parcel and Mission Boulevard. The 39311 Mission Boulevard parcel held an existing single-family home and detached garage, which would be removed. The sliver parcel was vacant with a small number of trees growing along the Mission Boulevard shoulder.

Access would be along a new, looped private street that would lead from Mission Boulevard into the property and would provide access to garages. Front entries would be accessed via a central paseo that would bisect the subdivision, along with two internal walkways that would run along the side property lines. Mission Boulevard, fronting the site, consisted of a four-lane arterial with two northbound lanes, two southbound lanes, bicycle lanes and a landscaped median. The frontage of the project site was currently unimproved with a dirt shoulder along the outer edge of the bicycle lane. The project site had two unpaved driveways directly off of Mission Boulevard one of which would become the main entrance to the private street. The other would be fully improved and deeded to the owners of the adjacent office complex.

Full street improvements would be constructed along the Mission Boulevard frontage, which would include new curb, gutter, sidewalk and landscape planter strip, and all existing overhead utility lines would be undergrounded.

The project would consist of six residential lots and two commonly-owned parcels that would contain the private street, two common outdoor open spaces at the rear of the site with barbecue facilities and a small play area, guest parking and a new driveway for the adjacent office complex. The two- and three-bedroom, three-story

units would range in size from 1,600 to 1,850 square feet with two-car garages for each unit.

Principal Planner Morris read the Gold Sheet change for Condition 15: “All improvements within the State of California Department of Transportation’s right-of-way and/or property shall require an encroachment permit from CalTrans prior to approval of Final Map.”

Tom Quaglia, Applicant, stated that he was the partner with Signature Development. He introduced Gary and Richard Arias, long-time property owners and City residents. About two years ago, three parameters involved 1) the existing General Plan of approximately 15 to 30 units per acre; 2) site design with large, existing utilities under the old Overacker Road, with the old easement still in place; 3) choosing a product that would be complimentary to the neighborhood and was favorable to the City. He and Staff decided 1) lower density would provide transition to the single-family homes across the way at 17 units per acre; 2) the site plan was to build the ends of the buildings towards Mission Boulevard to avoid a continuous wall and to allow the ability to see into the site. The front setbacks along Mission were very large, such as 50 feet on the right hand side and 90 feet on the other side. The Walnut Townhouses down the street were only about 15 feet from Mission Boulevard. 3) The new Guidelines were used for site planning, although none were in place at the time. The sidewalk would be finished all along Mission Boulevard; there would be no gates and no big building along the street and the main paseo would go up to Mission Boulevard, which would invite people into the heart of the project. If the vacant site next door came to fruition, the pedestrian paths between the two projects would be open and unfenced. This project had universal ADA-type of design with strong front doors at the ground level. A homeowners association would own and maintain all of the landscaping.

Chairperson Pentaleri opened the Public Hearing.

Dan Fox, True Life Companies, stated that they supported this project.

Alice Cavette, Fremont resident, stated that all one would see from the street would be a long canyon of three-story buildings with nothing but 19 garage doors, and balconies would look out at other balconies and garage doors. The front doors of 18 units would face a boundary wall and visitors or deliveries to the middle units of the north and south seven-unit building would have to walk a long way down a narrow walkway or enter through open garage doors. Compared to Shannon Townhomes, this plan did not have smaller buildings with different orientations, front doors facing the street or side of the building, side-by-side and tandem garages, open spaces and parking distributed throughout the development. But it did have varied rooflines. The two small open spaces were limited to the back corners. The paseos between Buildings 3 and 4 were so narrow that they hardly showed in the plan drawings. All the trees would be removed, even the mature trees on the Overacker sliver, which block the view of the property from Mission Boulevard. The two parking areas were

far away from the building entrances and one would have to cross the street to reach most of the units. Four-unit buildings in a variety of positions around the property would create a better layout. Sunken garages might enable them to have some front doors accessing the second story of the street side of the building. If a U-shaped street, rather than the planned circular street, met Fire Department regulations, some other, better street design could be created. If one unit were dropped, this project would have the same density as Driscoll Townhomes, which used narrow, private streets to have land for wide open spaces between the buildings.

Chris Cavette, Fremont resident, stated that he understood the challenges with infill developments such as this one. However, the long, straight rows of three-story buildings, with the backs pushed up against the U-shaped private street would form narrow canyons as entrances. The balconies would be the only private open space for residents and would face the street with no trees and very little landscaping. The windows on the facing ends of the two four-unit buildings in the center of the project would be only seven feet apart. There would be no room for side-to-side, interconnecting walkways to give the feeling of a cohesive neighborhood. The two seven-unit buildings would face the perimeter walls. The Phase I Environmental Site Assessment would not be adequate to detect soil contamination from agricultural chemicals associated with the orchards that were on this property through the 1940s. The analysis of ground-borne vibrations from the railroad was based upon infrequent passage of trains. The analysis should allow for future increases in train traffic.

Mr. Quaglia closed with stating that the Mission Boulevard trees had to be removed to accommodate the undergrounding of the overhead utility lines. Substantial planting would replace those most visible trees. When looking at Walnut, the same types of improvements had occurred less than ten years ago and the buildings were almost now completely screened by the established landscaping. The large open space areas would exceed the City's requirements and would be very useable. To allow view sightlines into the site, visitors could park at the parking spaces at one or the other ends and easily walk to the walkways, because this site was only 180 feet deep and very pedestrian friendly.

The Commissioners had the following comments and questions:

- **Commissioner Reed** commended the Applicant for providing above the minimum-required universal ADA entryways. As a person who used a wheelchair, he appreciated the ability to easily visit someone in those units.
Mr. Quaglia stated that some of the units had a few steps, because of grading, but the majority had none.
- **Commissioner Leung** if there was a minimum width requirement for the walkways between the buildings.
Associate Planner Kowalski brought attention to page 8, packet page 61, which showed the minimum width of those walkways to be 20 feet. The central walkway, the central paseo, would be no less than 20 feet. The walkways along the side property lines went down to about 15 feet at the narrowest pinch point.

- Would it be at least 20 feet, wall-to-wall?
Mr. Quaglia agreed, at the minimum; actually, the central paseo was 30 feet at some places and narrowed down to 20 feet at the ends, which would give some architectural variety.
- In response to Mr. Cavette's comments, had any allowance been built in to accommodate more train trips in the future?
No, but the vibration, regardless of how often it happened, had been taken into effect. The vibration would not change with more occurrences.
- **Commissioner Karipineni** asked about the seven-foot distance between windows.
Many projects in the City had detached townhouses that were about seven feet away from each other. The Code required three feet from each side, so a minimum of six feet was required. One instance of six feet was within the project, but it had no walkway between the buildings.
- **Chairperson Pentaleri** stated that he appreciated the Cavette's comments. It seemed that the points being raised were more sophisticated and more on point. What were some of the site constraints and how they had led the Applicant to this project?
The biggest plus was that the setback was so far back from Mission Boulevard. When the new trees grew up, they would contribute to the plus. The large utilities would stay in place and the small loop road would be placed right over the utilities. A constraint allowed the buildings to be turned perpendicular to Mission Boulevard, which would allow view sheds into the site. With the railroad tracks on the back side of the property, there would be no development and wide open space would be behind the project, like an hour glass. A good neighbor fence would be at the southern half of the property line and a masonry wall would be located to the north near the commercial building. The good neighbor fence would "go away, if and when the site on the corner of Mission and Stevenson develops." True Life Communities had come in and had started to process plans for that site, which could lead to a joint use of a pedestrian walkway there.
- Could he speak to the feasibility of the mix of two and three-story buildings?
The minimum density was 15 units per acre and this project would be 17 units per acre with three-story units and a depth of 43 feet. A two-story unit would be 55 feet in depth, which dramatically dropped the density to 13 to 14 units per acre. Staff had suggested a higher density. The edges of the buildings would be dropped down to soften the look.

Chairperson Pentaleri closed the Public Hearing.

Chairperson Pentaleri asked staff about the agricultural pesticides in the soils. Was the consultant funded by the Applicant and selected by the City?

Associate Planner Kowalski replied that the Applicant had submitted a Phase I Environmental Site Assessment (ESA) that was performed to a minimum threshold that was established by Federal law and it met the letter of the law. Typically, staff did not question if the ESA was done with a sufficient amount of detail. The

Assessment was performed by a licensed Geologist and an Environmental Scientist. The Applicant selected the consultant as part of their due diligence when purchasing the property.

Chairperson Pentaleri recalled the issue of the frequency of the train service had come up two meetings ago when he had raised the same point and it had been addressed to his satisfaction. Could he respond to that issue?

Associate Planner Kowalski stated that the Applicant had submitted a Noise Vibration Analysis, which the City then had peer reviewed. The Consultant chosen by the Applicant was on the City's short list, from which another consultant was chosen for the peer review. Both consultants had arrived at the same conclusion.

Principal Planner Morris added that, for CEQA, existing baseline conditions were considered, which was done here.

Chairperson Pentaleri understood that the guideline that was followed and the practice was that current conditions were evaluated and no speculation was done concerning possible future conditions. Neither did the design guess future changes in traffic. It was the established norm.

Commissioner Leung asked if staff had some kind of preference in terms of density. Would the City like to see a higher than 15 units per acre density?

Principal Planner Morris replied that the General Plan Designation was 14.6 to 29.9 units to the acre. The City would like to see more units in the appropriate place. With the constraints along Mission Boulevard and the setback that was necessary along the rail corridor, the developer came in with an acceptable 17 -18 units to the acre. Other future sites might come in with about 25 units to the acre, but with fewer constraints.

IT WAS MOVED (REED/DORSEY) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1) THE PLANNING COMMISSION – RECOMMENDED THAT THE CITY COUNCIL:

ADOPT THE MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PROGRAM FOR THE PROJECT AS SHOWN IN EXHIBIT "A," AND FIND ON THE BASIS OF THE WHOLE RECORD BEFORE IT (INCLUDING THE INITIAL STUDY AND ANY COMMENTS RECEIVED) THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

FIND THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN, INCLUDING

THE DESIGNATED GOALS AND POLICES SET FORTH IN THE LAND USE, MOBILITY, SAFETY AND COMMUNITY CHARACTER ELEMENTS AS WELL AS THE HOUSING ELEMENT OF THE GENERAL PLAN, AS ENUMERATED IN THE STAFF REPORT;

AND

FIND PRELIMINARY AND PRECISE PLANNED DISTRICT P-2014-84 AS PER EXHIBIT “C” FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

FIND THAT THE PROPOSED SUBDIVISION AND PRIVATE STREETS AS SHOWN IN EXHIBIT “C” ARE CONSISTENT WITH THE GOALS, POLICIES AND IMPLEMENTATION ACTIONS OF THE CITY OF FREMONT’S GENERAL PLAN. GOVERNMENT CODE SECTION 66474 AND FMC SECTION 17.20.200 PROVIDE THAT A TENTATIVE MAP APPLICATION MUST BE DENIED IF CERTAIN SPECIFIED FINDINGS ARE MADE. NONE OF THOSE FINDINGS CAN BE MADE IN THIS INSTANCE AS SET FORTH IN THIS REPORT AND EXHIBIT “E;”

AND

INTRODUCE AN ORDINANCE APPROVING A REZONING FROM R-3-27 (MULTIFAMILY RESIDENCE) AND CITY-INITIATED PLANNED DISTRICT TO PRELIMINARY AND PRECISE PLANNED DISTRICT P-2014-84 AS SHOWN ON EXHIBIT “B” AND APPROVING THE PRELIMINARY AND PRECISE PLAN AS SHOWN ON EXHIBIT “C” AND THE USE AND DEVELOPMENT PROVISIONS SET FORTH IN EXHIBIT “D,” BASED ON THE FINDINGS AND SUBJECT TO THE CONDITIONS SET FORTH IN EXHIBIT “E;”

AND

APPROVE TENTATIVE TRACT MAP NO. 8163 AND THE PRIVATE STREET AS SHOWN IN EXHIBIT “C,” BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT “E;”

AND

APPROVE THE PROPOSED REMOVAL AND MITIGATION FOR 25 PRIVATE, PROTECTED TREES, PURSUANT TO THE TREE PRESERVATION ORDINANCE AND AS DESCRIBED IN THE STAFF REPORT AND CONDITIONS OF APPROVAL IN EXHIBIT “E;”

AND

DIRECT STAFF TO PREPARE AND THE CITY CLERK TO PUBLISH A SUMMARY OF THE ORDINANCE.

The motion carried by the following vote:

AYES: 6 – Dorsey, Jones, Karipineni, Leung, Pentaleri, Reed
NOES: 0
ABSTAIN: 0
ABSENT: 0
RECUSE: 1 – Bonaccorsi

Chairperson Pentaleri explained that Item 1, Annie's Guns, had passed on the Consent Calendar.

Deputy City Attorney Rasiah added that, since that Item had a Conditional Use Permit, it was appealable to the City Council within ten days.

Item 5. MISSION HILLS SWIM AND TENNIS CLUB – 10 East Las Palmas Avenue - (PLN2014-00065) - To consider a Rezoning from Preliminary Planned District P-2012-241 to Precise Planned District P-2014-65, a Conditional Use Permit, and a Preliminary Grading Permit to allow the expansion of a swim and tennis club. An Environmental Impact Report was previously certified for this project and no further environmental review is required.

Commissioner Bonaccorsi recused himself, because of past or existing client relationships, which did not involve advising the client in any manner in connection with this particular project.

Senior Planner Pullen discussed the history and existing conditions on this site. In Fall, 2012, City Council had approved a Preliminary Planned District that would allow an expansion of the existing recreational facility from 5,700 square feet up to 23,100 square feet. The existing General Plan on this site was Private Open Space and the existing zoning was a Preliminary Planned District. In addition to the 5,700 square foot building, there were 13 tennis courts, a pool and spa, although the pool had not been in operation for some time now. The site is about 13 acres bounded by Almeria Avenue, East Las Palmas and Canyon Heights with access right off of East Las Palmas at Mission Boulevard.

At full build-out a core of three buildings would be located around a pool and pool deck, with a tennis court nearby and the remaining parking along the driveways and tennis courts farther out. The addition of pools and the reduction of tennis courts was one of the components of the project. Parking would be added and the preservation of open space were all part of the preliminary development approval.

- **Phase I** – The current pool would be removed and two pools with a pool deck would be added catty corner to the existing club and the new fitness center. A parking lot would be added over two of the four removed tennis courts east of the existing through driveway.
- **Phase II** – A 6,900 s.f. mini gym would be added
- **Phase III** – Would expand the clubhouse with typical gym and ancillary facilities, such as a café open to club members, a community room and additional parking.

Approximately 350 notices were sent and one email had been received today. Copies were at each Commissioner's chair.

Principal Planner Morris read the Gold Sheet change: “Staff requests that the following inadvertently omitted sheet be included in Exhibit “B” - Planset to the Staff Report: Sheet C-2, Conceptual Stormwater Plans (attached).

Chairperson Pentaleri asked if this project needed to stand alone at each phase. Staff’s Report stated that Phase I would have a total of 100 parking spaces. However, the table with the minimum parking calculations only had the calculation for the full build out and showed 126.5 spaces was required and they proposed to provide 160 spaces. It did not address the adequacy at each stage. Would the parking at the end of Phase I be adequate?

Senior Planner Pullen stated that he was correct. The Applicant intended to build it in individual portions, but it could be built all at once, if they so desired. Each phase should be reviewed individually. The current onsite spaces were 71 and when the parking was reconfigured, there would be some lost and gained. The reconfiguration of the central driveway at each iteration would change some of the assumption, because of the pathways into the new parking. Parking would be sufficient at each stage and a condition had been provided that would allow reduction of the third phase, based upon metrics, Condition 21, that would allow further reduction of parking, because it would be over. Parking would be adequate for Phase I.

Commissioner Karipineni asked if the Commission was required to find that the six conditions were met with the totality of the information received. For example, the Deed Restriction and the Landscaping Maintenance Agreement, did the Commission have to find that they had been fulfilled to approve this plan?

Senior Planner Pullen said that those conditions had been carried forward and they would have to be approved prior to issuance of the building permit. The drafts were being reviewed.

Chairperson Pentaleri called a recess.

Chairperson Pentaleri reconvened the meeting.

Dwane Kennedy, CityShapers Urban Planner, stated that their preliminary plan to expand the Club had been approved in 2012. He displayed a map showing the Club and a half-mile radius. The Club was located near the intersection of East Las Palmas Avenue and Mission Boulevard. It was less than one-half mile from Central Park and the 18-court Fremont Tennis Center and it was across the street from Mission Valley Shopping Center. The vision for the Club included 18,000 square feet of new interior fitness and recreational space; two new swimming pools and an outdoor spa; retention of eight tennis courts; upgraded pedestrian and vehicle access; new trees and landscaping; new and improved parking areas; dedication open space and conservation areas; and fire safety and disability access upgrades throughout. The club would be 100 percent accessible, including new pathways from Mission Boulevard to Canyon Heights.

New fitness areas would be within three structures:

- Fitness and swim center - 8,000 square feet, two stories, clad in natural wood shingles
Would include changing rooms, locker rooms, spinning and Pilates studios, sauna, and observation deck.
A warm water pool, 30 feet by 60 feet and six lane lap pool, 45 by 75 feet
New mini-gym - 6,800 square feet, about the size of one tennis court
Year-round basketball, badminton, ping pong, volley ball, children's activities and more than currently exist
- Renovation of existing clubhouse – Will total 8,000 square feet with new 2,000 square foot addition
New community room, café, kid's lounge, administrative offices, salon and pro shop

Three distinct phases:

- Phase I
Site infrastructure, pools, fitness center, sidewalks, roadway improvements and 50 parking spaces
- Phase II
Mini-Gym
- Phase III
Clubhouse renovation and 60 parking spaces, if needed

By building in phases, the Club could grow into the new facilities, naturally. One of the most beautiful transformations would be the new pool area. He displayed a rendering showing what it would look like without the 10-foot high chain link fence. The fitness and swim center buildings would be located in the background. New seating areas under a pergola were shown. A new fire access way from East Las Palmas would be constructed, which had not existed on the site. Trees would be preserved at this location.

He introduced Parking Consultant Ron Sanzo, SANDIS Civil Engineers.

Ron Sanzo displayed a graphic that showed how the parking would compare with the City's parking code within each phase, as well as what the ITE Parking Generation Manual recommended. Parking would exceed both the City's code and ITE recommendations.

Chairperson Pentaleri asked why so much parking at each stage.

Consultant Sanzo stated that recommended parking would be exceeded by just a few spaces in Phases I and II. Parking in Phase III would depend upon actual demand.

Vice Chairperson Jones asked if the additional parking would be considered, because of general membership or would it be geared toward special events. Did the additional 33 spaces anticipate a “booming business?”

Mr. Kennedy stated that no special events would be planned. This was a members only club with no special tennis or swimming events, such as swim meets.

Consultant Sanzo said that the 33 spaces would accommodate projected demand by the time of Phase III.

Senior Planner Pullen stated that Condition 18 required a Special Event Permit from the Zoning Administrator, if a special event were to occur.

Chairperson Pentaleri asked for clarification regarding the fact that the City’s Parking Guidelines were far above the ITE guidelines.

Senior Planner Pullen replied that various guidelines existed for this kind of facility. The combination of uses caused a struggle when deciding the appropriate parking. This parking study showed in measurable terms that parking would work out. Open space was to be preserved to the extent possible. Concern from the neighborhood about the possibility of insufficient parking had also impacted this plan.

Joe Farias stated that he had been a 15-year member of Hidden Hills Health and Tennis Club in Hayward until they closed two months ago. Subsequently, 50 Hidden Hills members joined Mission Hills Tennis Club and used this club two to four times a week. At least 20 of the 50 new members came to Mission Hills to play tennis on Monday, Wednesday and Friday. If the tennis courts were reduced from the current 13 courts to eight, it could mean that other alternatives would be considered.

Mark Von Gnechten, Dolerita Avenue, stated that he had lived across the street from the Club for 30 years. His concerns were the lack of communication and cooperation from the developer. Many written issues and suggestions had been raised, however, this plan was exactly the same plan that he had seen more than a year ago with none of the questions and concerns addressed. The big issues that would be discussed tonight were the loss of the tennis courts and the giant, monster of a gym, three stories hulking over the property. His smaller concerns were:

- What was the “Kid’s Lounge?” - A daycare facility for members while using the Club? Unsupervised play area? Something else?
- Will owner be applying for a liquor license for the café?
- What did Hours of Operation will “generally” be limited from 5:00 a.m. to 10:00 p.m. mean?
- Maintenance of noise levels suitable for a residential neighborhood?
- A walkway from the southern side of the Club, entering around Dolerita Avenue and moving across to the Almeria side of the Club, had been in use for about 30 years. It was convenient for residents to use rather than having to go all the way

around the property. It looked like a “members’ gate” would be located somewhere along the drive so that walkway would go away.

- The original plan had shown some walkways along the back part of the property, which seemed to be completely gone.
- The phasing should be changed. The construction could stop at any phase. The first phase would “wipe out half the courts” and add two pools and a new clubhouse; the second phase would build the monster gym. If the third phase was never reached, the gym and no tennis courts would be left and the same dumpy rundown clubhouse that was there now. The first phase would wipe out the tennis courts for parking; the last phase would use an unused part of the property for parking, but that may not be done. It made more sense for all 600 tennis player members to reverse the order with the possibility of saving two more courts.

Sunil Dhar, Benevente Avenue/Kimber Park resident, stated that he also lived across from the club. The Plan stated that “it would not be detrimental to the general welfare of persons that were residing in the immediate vicinity or the community at large.” A 30-foot high, three-story gym right across his back yard with lots of new parking spots and a two-story swim pavilion all built on one corner of the property, all looking right into his backyard and higher than the existing trees. Why was a 30-foot high building being treated as a single-story building? In other cities, 17 feet represented two stories. If the gym’s two floors were taken into consideration, it would not be a mini-gym. The total floor area would be 39,000 square feet. General Plan policies called for maintaining and enhancing Fremont’s identity as a city of neighborhoods. Planning and design decisions should define neighborhoods. A 30-foot building did not define a neighborhood that had existed for over 30 years. Policy 2.7 called for the retention of the overall character of the site and minimize the impact of mature landscaping and environmentally sensitive area. This policy would not be met and would not enhance the community. Policy 2-1.7B required the limit to the suburban model of one to two story buildings surrounded by surface parking. This was well over one to two stories. Get this facility down to meet the community environment.

Bob Fondiller, 35-year Orden Court/Kimber Park resident, stated that the residents had battled over this same property for all of those 35 years. He quoted the same quote as above and it was considered “not detrimental” by someone who did not live in the area. It was definitely detrimental with a three-story building with total building space to increase to over 400 percent, almost 100 new parking spaces, which would represent a 125 percent increase, a fence, a two-story swim pavilion. How was this not detrimental to people who live in the immediate vicinity? He wished the developer had spoken to people like him about what was and what was not detrimental. These large increases were not the least bit consistent with natural environment. This extremely large facility was getting away from the idea of Private Open Space. This facility did not “match the scale of the community.” This design was not well thought out.

Lois Leeds stated that she lived in Pleasanton and had been a member of Mission Hills for 29 years and had captained 20 USTA teams, one of which had represented Mission Hills at Nationals in Las Vegas in 2008. She was concerned about the removal of five tennis courts. Currently, membership was at almost 600, which was 400 more than when the Club closed in 2011. Play time had been reduced from two hours to one and one-half, currently, due to the large number of tennis players. At least 75 percent of the membership was made up of tennis players. Will playing time be reduced to one hour? Will people leave the Club to play elsewhere? Will the Club be able to host USTA teams and fall ball teams? The just-ended season had six teams at Mission Hills. With the added tennis members, there could easily be more than ten USTA teams per season. How could seven regulation USTA courts handle the potentially large number of teams? As a point of reference, the Tennis Center allowed only ten teams per season with 18 courts. Eagle Fustar continues to run their tennis academy at Mission Hills. It operates on six courts during non-prime time hours and it was an added source of income for the Club. With five courts removed and it would be up to fitness and swimming to keep the revenue coming. With nearby fitness programs and swim clubs, why would anyone join Mission Hills to exercise and swim? Visiting tennis teams always comment about the beauty of Mission Hills. Mission Hills had the potential to become a premier tennis facility, like no other facility in this area, but that would not happen with the removal of five tennis courts.

Jane Conn, Melendez Avenue/Kimber Park resident, stated that she had not received a notice of this meeting. The success or failure of the Mission Hills facility would impact the community. She was in charge of Mission Valley Swim Club Membership, across the street on Las Palmas. They had not been at full membership for many years, as was Highland Swim Club, one and one-half mile down the road. She agreed with the previous speaker regarding fitness clubs. Why would people come here? What happened if this was built and failed? The neighborhood would be stuck with another vacant Schoeber's-like facility. Actually, it would be worse with the three-story gym and a two-story building facing homes in the middle of the neighborhood. This proposal was not in the best interest of the community.

Marcia Dang, Melendez Avenue/Kimber Park, stated that she, also, had not received a notice. In Phase I, two of the six tennis courts on the eastern side of the existing driveway would be "repurposed" to provide 43 parking spaces, totaling 103 spaces. According to the Parking Demand Study performed for the Applicant and using the Institute of Transportation Engineers standards, necessary parking was calculated to be only 75 spaces at the end of Phase I. At the end of Phase III, a 60-space parking lot would be added, which would total 160 spaces, which would exceed by 33.5 spaces the 126.4 spaces requested by the City. Parking demand had been calculated at 108 spaces, 52 spaces less than the Applicant's plan. Harbor Bay Club had only 116 parking spaces with a larger clubhouse and more tennis courts. By eliminating five tennis courts to be used for additional parking, the applicant would be eliminating two valuable assets that helped to set the Mission Hills Club apart from other health clubs in the area. The parking plan was excessive, illogical, and

detrimental to the community, because it would destroy a part of the natural beauty and park-like character of the neighborhood. “They paved paradise to put up a parking lot.”

Chairperson Pentaleri called a recess for the stenographer at 8:31 p.m.

Chairperson Pentaleri reconvened the meeting at 8:41 p.m.

Andrew Law, 23-year resident of Kimber Park, stated that over 500 neighbors and supporters started the Save Kimber Park effort in 2011 to preserve the open space and the recreation facility from building residential houses. Since that time, progress had been made toward a win-win situation. Approved in December 2012, the Precise Planned District was available to the neighbors last Friday. However, two of the six conditions that would most impact the neighbors had not been addressed to his satisfaction, which were the Deed Restriction and the Landscape and Maintenance Agreement. He asked that the Deed Restriction be made public to allow it to be agreed upon by the neighbors and City Staff before it was recorded and record the updated Maintenance and Landscape Agreement from the Save Kimber Executive Committee. He asked that the Commissioners drive or walk the Kimber Park area, in the morning or evening, to understand why its unique character was important to preserve.

Laird Matthews, 35-year Almeria resident, stated he lived directly across the street from the proposed monster and had been a Club member for 34 years. He was in favor of a reasonable increase in tennis and swimming capability. He was interested in the Deed Restriction. Where were the Deed Restriction and Declaration of Covenants? The community had fought for 30 years to restrict residences from being built on the property across the way. To approve this proposal, the Deed Restriction and Declaration must be a part of it, but “you don’t have it.” Where was it? It was in his copy of the Draft resolution that was presented last January. He did not want a private document approved by the City Attorney in conjunction with the developer. It needed to see the light of day and go through public comment. The City attorney would decide if he would benefit, as an adjoining property owner? It should also run with the land forever. The Plan should not be approved without this Deed Restriction.

He displayed “a missing document in your package that ought to be there, but it’s not.” This was presented to the City Council in November, 2012. Why was it not with the Commissioners’ packages? The residents and homeowners were very concerned that project creep would happen and the recreational area would move into, and violate, the conservation areas.

Dr. Gordon C. MacLeod, Dolerita Court resident, stated that he had been a member of the Club since 1976 and lived directly across the street. The big gym was not appropriate for the neighborhood. He joined the Club because of his interest in tennis and had been pleased with the addition of the courts in the rear “that were fought over

for a while.” Not many people belonged to the Club to do Pilates and use exercise machines and he doubted that they would be a draw in the future. The draw would be the Tennis Club. The club on Stevenson had 18 courts and the club was thriving, in spite of that.

Ed Ellebracht, long-term Kimber Park resident, discussed the main points on his handout to the Commissioners.

- Original Grant Deed Covenants – They restricted the back two-thirds of the property to Open Space or outdoor recreation.
- Landscape Agreement importance – He had submitted a detailed proposal that was based upon the existing one and he asked that the Planning Department start with this updated agreement. The Landscape Agreement was instituted at this time and ran with the land.
- Parking was expressly excluded, per City Code, from being considered Open Space. Therefore, the proposed parking on the back two-thirds (anything east of the driveway through the property) would not be in compliance and should be removed or relocated.
- Wildlife lived and breathed in this area. This open space had become even important, because of the drought. Several pup foxes and fawns had been observed being raised in the Kimber Park Open Space (the back two-thirds of the property).
- The Landscape Agreement was important, because this area was zoned as Very High Fire Danger. As shown, the Agreement was woefully incomplete. He asked that it be corrected before anything was approved.

April Ellebracht, Kimber Park resident, stated that she was Co-President of Save Kimber Park. The community really wanted a thriving recreation facility that would fit into the context of the neighborhood. She asked that the Save Kimber Park Major Points be referred to by the Commission.

- A fairly complete draft of the Deed Restriction had been included in the prior plan, but not with this one. It was important that the neighborhood have input.
- The Conservation Easement had been before Council in 2012 and it should be included. The neighborhood needed this protection for the undeveloped land.
- The Landscape Agreement had always been attached to this property. It had been neglected and not followed for many years. A new one that would truly protect the Open Space was needed and “real” enforcement must be included.
- Parking in the back two-thirds of the property should be in another location. It could be along the entrance drive where a scrubby, ditch area was located would be a location to hide the parking.
- Overall, too much parking was planned. Tennis members would be lost, because valuable tennis courts would be covered over for parking.
- The gym would be a big block, a giant cereal box. The other buildings would have sloping roofs to try to fit into the neighborhood. If it was included, it should be shortened a bit and moved to the third Phase.

- Fewer tennis courts would make it difficult to continue the draw that the Club had at this time.
- The youth academy, Eagle Fustar brought in a nice revenue stream. They used the courts when the members did not generally use them.
- There were multiple USTA teams and daily member use.

This Plan had come a long way from the start, but it was still not ready. It needed further adjustment.

Mr. Kennedy comments were:

- The Land Use Plan that was displayed by Mr. Matthews had been religiously stuck to throughout the process. The recreational area and the access would be located exactly where it had been promised. The conservation areas were not “conservation easements,” and had been identified. Parking lots would not be located along East Las Palmas to preserve that natural area, as they were asked to do. Now, the suggestion of a parking lot in that area was a little confusing.
- It seemed that opinions had changed since 2012 and rather than being close to agreement, it seemed that agreement was, again, moving in another direction.
- Many mailers and correspondence (about 5,000 pieces of mail) had occurred and they had “listened and listened and listened,” along with countless emails and he had attended more than 20 open houses; many times he was the only one there. A room in the clubhouse had been dedicated where the updates for the plans could be seen as they had occurred.
- In 2012 Save Kimber Park leadership submitted a letter with items they would accept and what they would not accept. They wanted a clubhouse, a café, a mini-gym, retain trees and replacement of dead trees and that had been or would be done. Complaints were made about the plan being underparked; now their complaints are about overparking.
- Tell him where he had gone astray.

Chairperson Pentaleri asked the following:

- What was the Kid’s Lounge?
Mr. Kennedy stated that it was a play area for members’ children while they used the facility.
- Would there be a liquor license?
He saw no need for a liquor license, although tennis club members liked to bring in alcohol when using the upper tennis courts.
- What about walking access across the property?
It made good sense to provide accessible paths from Mission Boulevard to the Club, improve the bike path along Almeria and along Canyon Heights. There would be no restriction all the way across the property. There had never been problems with cutting across the property. Those details had not been planned, yet.
- Were the tennis courts at the rear coming out in Phase I?
The courts would stay; they were being repurposed for parking, which would decrease the need to cut into other parts of the site for parking. It seemed that

tennis was less important than conserving open space and trees. They would not be allowed to go beyond the two-thirds.

- Would the grading associated with the parking sites happen as part of Phase I?
Some of the additional Phase I 50 parking spaces would be along the existing roadway, along the new fire access, some along Almeria.
- How many of the tennis courts would be removed as part of Phase I?
Two tennis courts would be repurposed, as shown on the graphic.
- Would it be the two in the area of the clubhouse?
Yes, the closest to the road. Anything shown in yellow was Phase I.
- Would the additional parking shown in Phase III eliminate any tennis courts?
If that parking was necessary, it would go where the bottom of the pond was now. If the parking mitigations, as detailed in the SANDIS report, work, the parking would not be added during the third phase.

Senior Planner Pullen added that the four tennis courts to be removed were the four tennis courts that were currently near the mini-gym and new pools. Two tennis courts in the rear would be changed to parking. At this time, the initial number of tennis courts was thirteen and the final number would be eight, including a new tennis court next to the pools.

- **Chairperson Pentaleri** inquired about the new gym –
Mr. Kennedy answered, yes, it would be a big boxy building and the landscaping would screen it; the existing houses would be more visible from certain parts of the site. Another graphic showed how various landscaping products would screen it. The roof would be well below the heights of the trees.

Commissioner Reed asked about the first three points on the Save Kimber Park letter: Deed Restriction, Conservation Easement and Landscape Agreement.

Mr. Kennedy stated that consultants were hired to create a very detailed Deed Restriction and it had been submitted to the City Attorney for review. He did not recall committing to a Conservation Easement, but conservation areas had definitely been planned. The existing landscape maintenance contract seemed to be working just fine. It was converted into a new modern Landscape Agreement that included all that was being done at this time and it had, also, been submitted to the City for review.

Commissioner Reed commended the Applicant for bringing the original planned housing to zero.

Vice Chairperson Jones asked the following:

- Much concern had been expressed over the height of the gym, which would be 26.5 feet?
Mr. Kennedy stated that was correct.
- What was the average height of a two-story home?
In residential areas it was 24/25 feet.
Senior Planner Pullen clarified that the plans showed 29.5 feet.

- It would not be a significant difference?
It would be right in line with what was in the neighborhoods.
- Was there any issue with the Deed Restrictions becoming public information or being reviewed by the Kimber Park folks?
Mr. Kennedy assumed that everything submitted to the City was for public record.
Deputy City Attorney Rasiah suggested the Commission recommend that they be made available to the public between now and the date of the Council meeting, once they were finalized.
- How many members were there at this time?
He did not know.
- Did the excess 33 parking spaces equate to about two tennis courts?
The Plan showed the exact number of spaces.
- If, down the road in Phase III, and the additional 33 spaces were not needed, would two more tennis courts be installed, instead?
If there was a demand, it was certainly possible.

Commissioner Leung asked the following:

- With each phase to be built independently, what kind of benchmark was needed to be achieved in order to move onto the next phase?
Mr. Kennedy replied that the graphic, in three different colors to represent each phase, showed what would be completed during each phase. Another black and white exhibit showed each phase as a separate plan.
- What had to happen during Phase I in order to begin Phase II and then Phase III?
Infrastructure would be built first, such as roadways and walkways, to support the construction of the buildings and pools, all completed in Phase I.
- With the comments made about the mass and location of the two large buildings, could they be located somewhere else?
While creating this plan in 2012, every possibility was considered for these buildings and pools. This was the best option.
- Was the flow of traffic and parking considered in relation to the tennis courts and swimming pools? Did City Planning staff provide input?
He had been meeting with staff for a year using staff and the public's comments for guidance.

Commissioner Dorsey asked:

- Please explain about the gate.
Mr. Kennedy stated that it was a Members Only Gate, which was a sliding gate to control vehicle traffic and security. The Club should not be open for anyone to drive through at any time, especially after hours. Access points would be available for pedestrians.
- Would a gate be located at the opposite exit end?
Sarah Gronquist, Landscape Architect, stated the drive would be one-way. Pedestrians would be allowed to walk through the site. If someone wanted to back in, they probably could.

- Would the gate be manned?
Mr. Kennedy stated that he would prefer that it be electric. If parking were filled, it could be used to divert those extra vehicles.
- Landscaping was pretty open from Almeria. How long would it take the trees to screen the mini-gym?
Landscape Architect Gronquist stated that a large, beefy hedge would be the main line of defense, which was fairly fast growing and evergreen commonly used for this purpose. A layering of other plant material would be used between the hedge and street wherever a planting space could be utilized. The mini-gym would not be immediately invisible. Probably five to eight years.
- How open was the Applicant to switching the phasing and not taking out the tennis courts in Phase I and putting the parking somewhere else?
Mr. Kennedy stated that the phasing was set.
- Why was the owner, or her representative who had a business interest, not in attendance tonight?
She was in China. She did not usually attend meetings.

Commissioner Karipineni asked the following questions:

- What was the benefit of fewer tennis courts to the wellbeing to the club and/or the community at large?
Mr. Kennedy indicated the original plan was under-parked, it became costly and had not accounted for many construction-related issues, such as, staging and convenient parking on existing and pervious surfaces.
- Many community members felt that the courts were more important than some of the other issues.
They were trying to reprogram this club and modernize it. Other successful clubs have been consulted and some of them had had to reduce their tennis courts, Harbor Bay, for example, planned to cut their tennis program in half. A 6,000 square-foot tennis court accommodated four players for an hour. Compare that to what a mini-gym or pool could accommodate.

Vice Chairperson Jones asked if any significant function change to use of the mini-gym if the height were lowered by three or four feet.

Mr. Kennedy said that it had been lowered from the originally planned height. It would affect badminton play if it were any lower, although the height was lower than the regulated height. The mansard roof hid utilities, such as solar panels and made the roof look lower.

Commissioner Leung asked if the trees would be planted during Phase III. She applauded the LEED certification, which would improve the City's standard of quality for buildings.

Mr. Kennedy stated that they would be planted during Phase I. This club should not be compared to the Costco of clubs. This would be a premier, unique product that would be difficult to find in the State. It would never be a Club Sport.

Chairperson Pentaleri called a recess for the stenographer at 9:41 p.m.

Chairperson Pentaleri called the meeting back to order at 9:51 p.m.

Chairperson Pentaleri asked more questions:

- Would they speak to what could be expected of the landscaping that was intended to screen the larger buildings?
Landscape Architect Gronquist stated that much care was taken with the rendering to show the buildings with landscaping and the existing redwoods in scale.
- Were redwoods pretty fast growing?
Yes. The problem between the mini-gym and Almeria Avenue was that the amount of horizontal space for planting was not ideal. It was a fire-risk area, so trees could not be placed very close to new buildings.
Mr. Kennedy noted that the 70-foot separation between the public street and the club was an advantage. The comments made would be appropriate if this new building were looming over the public street and pedestrian path.
- Why could not the functions that would take place in the new mini-gym be integrated into the newly renovated original gym?
The existing clubhouse was a one-story and had good bones and was the community center of Kimber Park, according to the residents. It would be treated with respect by not changing the exterior. They were clearly told to keep hands off that club and not to destroy it.
- The new court would have an orientation of east/west, rather than the preferred north/south, having to do with the avoidance of sun in the eyes of the players. Could that be reorientated?
Sure. It was a matter of striping. It would be used as a demonstration court that would have seating around it.
- The better solution would be to reorient the phasing so that the Phase I parking would be added where the Phase III parking might be located and preserve the tennis courts at least a need for more parking was demonstrated.
They were committed to the current phasing plan.

Chairperson Pentaleri closed the Public Hearing.

Vice Chairperson Jones asked if the tennis court surfaces met the surface requirements for parking. If not, would it have to be torn out?

Senior Planner Pullen replied that it would not be sufficient for parking. It would have to be, at least, improved. He did not know if it would have to be removed and replaced. Storm-water pollution/prevention limitations might impact how impervious surfaces were counted.

Chairperson Pentaleri asked the staff the following:

- Hours of Operation – What were they? Would there be some flexibility?
Senior Planner Pullen stated the 5:00 a.m. to 10:00 p.m. were given to staff by the Applicant. The Condition was crafted to be a Use Permit Condition and modifications to those hours would be allowed by the Planning Manager or Planning Commission depending upon how substantial the changes were.
- Noise Levels – Would special events need a permit?
Most of the noise would come from the tennis courts, which would be equal to what already existed. The hours were much the same at this time as with the new operation. It was very unlikely that noise would carry from the pools, since they were within the central core of buildings. Yes, special events were part of the Hours Condition, which would require a Zoning Administrator Permit. Noise could also be caused by traffic and other issues. The General Plan called for a 60 dB limit.
- Walking Access Across Property – Should that be addressed by the Commission at this stage?
Condition 17 provided quite a few components of the access around and through the site. Currently, an existing pedestrian and bike path was along the northern edge whose orientation would be modified slightly and it would be upgraded to be accessible to people walking or biking along that edge. The Building Code required access be provided from the neck of East Las Palmas, where a bus stop existed, across to the property and up the property to get to the main entrance to the Club and also to connect with the bike/pedestrian path. Additionally, along Canyon Heights, people currently walked along the edge of the road. The Plan would install curb cuts along Canyon Heights, across East Las Palmas and across Almeria and, eventually, connecting together. Unique to this subdivision, cul-de-sacs were exempt from sidewalk requirements, altogether. A constraint existed along the southern edge did not allow a sidewalk to be built. Staff believed that it was better to better connect the edges to existing resources.
- Did he have a graphic that showed the bus stop location? Was it roughly aligned with the end of Dolerita Avenue or was it farther up?
No, he did not have such a graphic. When driving in the neck of East Las Palmas at Almeria Road, it would be where the cross walk was located.
- Could pedestrian access along that road at the location of the new gate?
Yes, it could be.
- Why could not the massing of the building be broken up and reduced?
The Preliminary Planned District called for two to three buildings, as opposed to one large building, as requested by City Council. During a review, the gym was a little taller than the 30-foot limit, which had been pushed down to under 30 feet. Using this particular style of roof to hide the mechanical equipment, but allow the clear space inside made it more consistent with a residential feel. It allowed a window pattern that would give the building more of a one-story look.
- Could the Deed Restriction and Landscape Agreement be made available for public review in advance of the City Council meeting? Was the Landscape

Agreement an agreement between the Applicant and the residents? The Applicant and the City?

Deputy City Attorney Rasiah stated that, ordinarily, that was something delegated to staff. They would have to be recorded before any building permits were issued. Making them available to the public after they were finalized should not be an issue. As conditioned, the Landscape Agreement would be recorded against the property.

Senior Planner Pullen directed attention toward Conditions 27 and 28. Both would be required to be recorded and they could be provided in advance of the City Council meeting in their final form. In the case of Condition 27, the wording would benefit the adjacent property owners and in the case of Condition 28, the wording was not that specific. It stated, "A new and updated Landscape and Maintenance Agreement shall be recorded prior to issuance of building permits. Property owner shall maintain sufficient funding in order to fulfill its obligations under the Agreement."

- He asked that an opportunity be made by staff to hear public comment on the specifics of the two proposed documents.

Deputy City Attorney Rasiah agreed.

- Please discuss Conservation Easement versus Conservation Area.
The Conservation Easement was a proposed condition prior to the Preliminary Planned District being established. It was deleted by Council, because it was seen as duplicative with the Deed Restriction.
- Was parking compatible with Open Space?
The Private Open Space General Plan Land Use Designation allowed private recreational facilities on it. The definition provided in the community presentation was directly from the Fremont Municipal Code, General Definition for Open Space. The General Plan specifically allows these types of facilities, which include buildings, outdoor recreational facilities, grounds, parking, landscaping and other features. For that definition to be taken to a point where it would prohibit parking within an Open Space Area, as generally defined in the Fremont Municipal Code, would not be correct.

Commissioner Leung's stated that most of her questions had been asked. She asked if the Deed Restriction required that the Commission make its decision with regard to it. Was the Landscape Agreement also something that the Commission needed to make a decision about?

Deputy City Attorney Rasiah answered that the Deed Restriction and the Landscape Agreement would not come back before the Commission. They were Conditions of Approval and they would not be separately approved. But they would have to be recorded against the property prior to the issuance of a building permit.

Vice Chairperson Jones recommended that the Deed Restriction and Landscape Agreement be made available to the public prior to this project going before City Council.

Commissioner Dorsey had an issue with the phasing and she suggested that it be done differently so that the tennis courts could be preserved as long as possible. If the plan was to be phased, it made more sense to have the Clubhouse to be in the first phase. If no other phases happened, the Club members and the neighborhood would have just the old Clubhouse.

Chairperson Pentaleri stated that, clearly, this matter had been going on for a long, long time and a lot of passion existed. He heard the passion and the concerns over the business plan. The Commission's role was not to review someone's business plan, but to defer to the property owner's judgment, since no one would be more motivated than they would be to be successful in their business undertaking. It would be difficult to act on those kinds of concerns. The height and massing could be a concern. However, in the context of any other project, anyone would acknowledge the generous setbacks from the actual curb, a good-faith effort to screen the new structures and visibility from the yards across a generous street. What was being presented was consistent with the original direction from City Council. He would prefer recommending that the spaces equal to the City guidelines at the full build-out. If additional parking was needed, it could come back to the Commission. He recommended that total parking for the Phase III build-out be limited to more than the City guidelines, about 126 spaces. He also recommended that the Phasing be changed so that the parking currently identified as Phase III parking be a part of Phase I and allow preservation of the tennis courts that were now part of the Phase I parking plan. If the need came about for up to 126 parking spaces, then the right place for those spaces could be decided at that time. He agreed with **Vice Chairperson Jones** recommendation. As part of the motion, he would like to encourage the Applicant to reorient the new court so that it would be aligned with the other courts.

His rationale for not including the clubhouse in the first Phase was that it would not be in the best interest to generate revenue during construction. Many others might see it as better done a better way, but it was not within the purview of the Planning Commission to second guess the Applicant's business plan.

Commissioner Dorsey believed that it was the Commission's duty to represent the people who would be most affected by this project, who were the residents of Kimber Park. No one from the public had spoken in support of this particular plan. She respectively disagreed about the phasing and she believed that the mini-gym issue had not been adequately been addressed. The mini-gym should be reduced in size.

Commissioner Leung responded to some of **Chairperson Pentaleri's** suggestions, above. If a condition was made to meet minimum City parking, could a condition be created to allow them to meet with the City's Traffic Engineer if they felt they needed more parking at the time of Phase III?

Senior Planner Pullen stated that her question was very similar to the existing condition.

Deputy City Attorney Rasiah stated that if more parking were requested, it could involve an Amendment to the Planned District. It would depend upon what was requested at that time.

Commissioner Leung asked if this condition was feasible to switch the parking.

Senior Planner Pullen stated that it was feasible to switch the parking to the, at yet, undisturbed area, rather than putting the parking lot over the tennis courts during the first phase.

Commissioner Karipineni agreed with the comments made by **Chairperson Pentaleri** with regard to the purview of the Commission to make decisions that were related to the business rather than related to consistency or a broad accordance with the guidelines set forth by the City. She suggested that the trees to be planted in Phase I to shield the mini-gym should reach a certain height prior to allowing the construction of the gym building. She agreed that its visibility was less of an issue, due to the large setback. It was relatively bare in that general area.

Senior Planner Pullen indicated that either a larger-sized box tree could be initially planted or waiting a particular time for a specified height to be reached. However, he had not seen a condition like the latter being proposed.

Principal Planner Morris was not certain if the City could require a tree to reach X feet before it issued a building permit.

Commissioner Karipineni understood. She asked if the Applicant could be required to plant the trees in Phase I.

Commissioner Dorsey asked if it would not be in everyone's best interest to send this back to staff to work with the Applicant and bring it back to the Commission at a later date.

Deputy City Attorney Rasiah replied that staff was keeping track of the suggestions and the motion would be restated.

Commissioner Leung asked when this project was scheduled to be heard by City Council.

Senior Planner Pullen stated that it was tentatively scheduled to be heard on September 9th.

Vice Chairperson Jones suggested that the trees currently planned for that area would reach 20 feet within a relatively short time. He wondered if there were any other trees that would grow as quickly, but would be a little bit larger.

Senior Planner Pullen stated that a wide variety of plant choices would be available. They were comfortable with what had been chosen.

Chairperson Pentaleri summarized the recommendations made by the Commissioners:

- Total parking authorization to be limited to no more than City guidelines.
- Phase I would preserve the tennis courts on the back two-thirds area and any required parking would occur in the area currently identified as part of Phase III.
Deputy City Attorney Rasiah clarified that it would be consistent with the overall rubric of 100 spaces in Phase I.
- Deed Restriction and Landscape Agreement (Conditions 27 and 28) would be available for public review as part of the City Council Agenda packet.
- Encourage Applicant to reorient the new tennis court to be located near the pools.
- Require that landscape screening be planted as part of Phase I.

Commissioner Leung asked if the Commission's recommendation would be included before this item was heard by City Council

Senior Planner Pullen replied that a section would be included that recounted tonight's conversations and it would include the Commission's recommendation and any additional information.

Principal Planner Morris added that it was up to the Developer as to whether he chose to go along with the recommendations.

Deputy City Attorney Rasiah announced this item would be heard by City Council on September 9th.

IT WAS MOVED (REED/JONES) AND CARRIED BY THE FOLLOWING VOTE (5-1-0-0-1) THE PLANNING COMMISSION – RECOMMENDED THAT THE CITY COUNCIL FIND THAT THE PROPOSED PRECISE PLANNED DISTRICT AND CONDITIONAL USE PERMIT AS SHOWN IN EXHIBIT “B” CONFORMS WITH ALTERNATIVE #5 OF THE PREVIOUSLY-ADOPTED ENVIRONMENTAL IMPACT REPORT (EIR) (PLN2012-00241/SCH#2012052065), AND FIND THAT PURSUANT TO CEQA GUIDELINE SECTION 15162 NO FURTHER ENVIRONMENTAL REVIEW IS NEEDED AND THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

RECOMMENDED THAT THE CITY COUNCIL FIND THAT THE PRECISE PLANNED DISTRICT AND CONDITIONAL USE PERMIT AS SHOWN IN EXHIBIT “B” IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE PRIVATE OPEN SPACE LAND USE DESIGNATION SET FORTH IN THE GENERAL PLAN'S LAND USE ELEMENT AS ENUMERATED WITHIN THE STAFF REPORT;

AND

RECOMMENDED THAT THE CITY COUNCIL FIND THE PRECISE PLANNED DISTRICT AND CONDITIONAL USE PERMIT FOR THE PROJECT AS DEPICTED IN EXHIBIT “B” FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

RECOMMENDED THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE APPROVING A REZONING FROM PRELIMINARY PLANNED DISTRICT P-2012-241 TO PRECISE PLANNED DISTRICT P-2014-65 AS DEPICTED ON EXHIBIT “A” (REZONING MAP) AND APPROVING THE PRECISE PLAN AND CONDITIONAL USE PERMIT AS SHOWN ON EXHIBITS “B,” SUBJECT TO CONDITIONS OF APPROVAL IN EXHIBIT “C;”

AND

RECOMMENDED THAT THE CITY COUNCIL APPROVE THE REMOVAL OF THREE PROTECTED TREES TO BE MITIGATED ONSITE;

AND

RECOMMENDED TOTAL PARKING AUTHORIZATION TO BE LIMITED TO NO MORE THAN CITY GUIDELINES;

AND

RECOMMENDED PHASE I PRESERVE THE TENNIS COURTS ON THE BACK TWO-THIRDS AREA AND ANY REQUIRED PARKING WOULD OCCUR IN THE AREA CURRENTLY IDENTIFIED AS PART OF PHASE III, *CONSISTENT WITH THE OVERALL RUBRIC OF 100 SPACES IN PHASE I;*

AND

RECOMMENDED DEED RESTRICTION AND LANDSCAPE AGREEMENT (CONDITIONS 27 AND 28) BE AVAILABLE FOR PUBLIC REVIEW AS PART OF THE CITY COUNCIL AGENDA PACKET;

AND

RECOMMENDED ENCOURAGING APPLICANT TO REORIENT THE NEW TENNIS COURT TO BE LOCATED NEAR THE POOLS;

AND

RECOMMENDED THAT THE CITY REQUIRE LANDSCAPE SCREENING BE PLANTED AS PART OF PHASE I.

The motion carried by the following vote:

AYES: 5– Jones, Karipineni, Leung, Pentaleri, Reed
NOES: 1 – Dorsey
ABSTAIN: 0
ABSENT: 0
RECUSE: 1 - Bonaccorsi

DISCUSSION ITEMS - None

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.

Principal Planner Morris announced that the July 24th meeting was cancelled and the next Planning Commission would occur on August 28th.

- Report on actions of City Council Regular Meeting

None

- Information from Commission: Commission members may report on matters of interest.

Commissioner Dorsey requested that staff advise her when the agenda packets were ready and she would be happy to come into the Planning Department and pick it up, rather than it being overnighted to her.

Meeting adjourned at 10:50 p.m.

SUBMITTED BY:



Alice Malotte
Recording Clerk

APPROVED BY:



Wayne Morris, Secretary
Planning Commission